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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 MICHAEL MONTGOMERY,

11 Plaintiff,

12 vs.

13 WAL-MART STORES, INC.;  
14 KINDERHOOK INDUSTRIES II,  
15 L.P.; KINDERHOOK INDUSTRIES,  
16 L.L.C.; KINDERHOOK CAPITAL  
17 FUND II, L.P.; CRESTWOOD  
18 HOLDINGS, INC.; BERGAN, L.L.C.;  
JOHN ELMBURG; ROBERT  
ELMBURG; ERIC ELMBURG;  
ROCKY FLICK; HOME DEPOT  
U.S.A., INC.; DOES 1 through 20  
inclusive,

19 Defendants.

CASE NO. 12CV3057 JLS (DHB)

**ORDER (1) RESETTling  
HEARING; AND (2) SETTING  
BRIEFING SCHEDULE**

(ECF No. 46)

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21 Presently before the Court is Defendants Kinderhook Capital Fund II, L.P.,  
22 Kinderhook Industries II, L.P., and Kinderhook Industries, LLC's ("Defendants")  
23 Motion to Dismiss or, in the Alternative, Stay. (ECF No. 46). The motion was filed on  
24 March 25, 2013. A hearing on the motion is currently set for May 2, 2013. The

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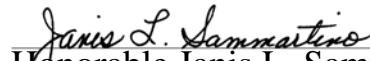
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1 Court, on its own motion, **HEREBY VACATES** and **RESETS** that hearing for Friday,  
2 May 31, at 3:00 p.m.

3 Plaintiff Michael Montgomery **SHALL FILE** an opposition to the motion on,  
4 or before, May 2, 2013. Defendants **SHALL FILE** a reply, if they wish, on, or before,  
5 May 9, 2013.

6 **IT IS SO ORDERED.**

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8 DATED: April 9, 2013

9   
10 Honorable Janis L. Sammartino  
11 United States District Judge  
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